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In this chapter. . .

This chapter provides a “roadmap” for using this benchbook and directs the user to the applicable law. It summarizes the different types of proceedings described in this benchbook and contains cross-references to the chapters applicable to each type of proceeding. Section 1.6 distinguishes among the various methods by which a juvenile may be tried and sentenced criminally.

Note on court rules. On February 4, 2003, the Michigan Supreme Court approved extensive amendments to Subchapter 5.900 of the Michigan Court Rules, which govern delinquency, minor PPO, designated case, and “traditional waiver” proceedings, and to Subchapter 6.900, which govern “automatic waiver” proceedings. Subchapter 5.900 was renumbered Subchapter 3.900. These rule amendments are effective May 1, 2003. Although not in effect on the publication date of this benchbook, the rule amendments have been included here. For the rules in effect prior to May 1, 2003, see the first edition of this benchbook, *Juvenile Justice Benchbook: Delinquency & Criminal Proceedings* (MJJ, 1998).

1.1 Summary of Benchbook Contents

This benchbook details the procedures used in juvenile delinquency cases, personal protection order cases involving a minor respondent, and cases in which a juvenile may be tried and sentenced as an adult, either by designation in the Family Division or by waiver to the Criminal Division.

Thus, it covers proceedings that occur in the Family Division of the Circuit Court and the Criminal Division of the Circuit Court.

Note: Throughout this benchbook, “Family Division” is used to describe the Family Division of the Circuit Court, and “Criminal Division” is used to refer to the division of the circuit court that normally handles felony offenses committed by adults. References to the probate court or “juvenile court” and recorder’s court used in statutes, court rules, or case law have been altered to conform to this usage. MCR 3.903(A)(4) states that “court” means the Family Division of the Circuit Court when used in Subchapter 3.900, and MCL 600.1009 states that a reference to the former Juvenile Division of the Probate Court in any statute shall be construed as a reference to the Family Division of Circuit Court.

*Chapters 1–3, 7, 11, and 24–25 contain material applicable to all of the five types of proceedings listed below.

The organization* of this Benchbook reflects five different types of proceedings involving juveniles charged with criminal offenses, status offenses, and violations of personal protection orders. The five types of proceedings are:

Delinquency and Status Offense Proceedings—Chapters 4–14

Delinquency proceedings involve juveniles under age 17 charged with a violation of a criminal law or ordinance, or with a status offense. Delinquency proceedings occur within the Family Division. If the juvenile is found responsible for the offense, the court may order a juvenile disposition, such as placing the juvenile on probation or committing the juvenile to the custody of the state.

Although the Michigan Court Rules include proceedings involving status offenders within the definition of “delinquency proceeding,” there are important differences between the two. For example, a status offender may only be placed in a secure (locked) facility in limited circumstances. This and other special requirements in status offense cases are noted throughout this benchbook.

Minor Personal Protection Order Proceedings—Chapter 15

Personal protection orders (PPOs) may be used to enjoin abusive conduct and stalking by persons adults and minors 10 years old or older. The Family Division has jurisdiction under the Juvenile Code to conduct minor PPO proceedings involving respondents 10 years old or older. However, a PPO may not be issued if the petitioner and respondent have a parent-child relationship and the child is an unemancipated minor. In such cases, a delinquency or child protective proceeding may be instituted. Violations of PPOs result in contempt proceedings. If a respondent is under 17 years old at the time of the violation of a PPO, the court may impose a juvenile disposition for the violation. If a respondent is 17 years old or older, the

court must impose criminal sanctions for criminal contempt violations of a PPO or civil contempt sanctions for civil contempt violations of a PPO.

“Traditional Waiver” Proceedings—Chapter 16

Where a juvenile is charged with a felony, the prosecuting attorney may file a motion asking the Family Division to waive its jurisdiction to allow the juvenile to be tried as an adult in the Criminal Division. If the Family Division waives its delinquency jurisdiction over the juvenile, a criminal trial takes place in the Criminal Division. Following conviction, the juvenile must be sentenced as an adult.

Designated Proceedings—Chapters 17–19, 22, and 23

In designated proceedings, a juvenile of any age is tried in adult criminal proceedings that occur within the Family Division. If a “specified juvenile violation”^{*} is alleged, the prosecuting attorney may designate the case for criminal trial. If a non-specified juvenile violation is alleged, the Family Division judge must decide whether to designate the case for criminal trial. The juvenile is afforded all the legal and procedural protections that an adult would be given if charged with the same offense in a court of general criminal jurisdiction. A plea of guilty or *nolo contendere*, or a verdict of guilty, results in the entry of a judgment of conviction. Following conviction, the court may sentence the juvenile as an adult, delay imposition of an adult sentence, or order a juvenile disposition.

^{*}See Section 17.1(A) for a list of “specified juvenile violations.”

“Automatic Waiver” Proceedings—Chapters 20–23

Where a “specified juvenile violation”^{*} is alleged, “automatic waiver” allows the prosecuting attorney to vest jurisdiction in the Criminal Division by filing a complaint and warrant in district court rather than filing a petition in the Family Division. The juvenile is tried in criminal proceedings that occur within the Criminal Division. Following conviction, the juvenile may be sentenced as an adult or placed on probation and committed to public wardship. For some “specified juvenile violations,” an adult sentence is mandatory.

^{*}See Section 2.6 for a list of “specified juvenile violations.”

1.2 Table Summarizing Statutes and Court Rules Governing Proceedings Involving Juveniles

The following table provides general guidance in locating statutes and court rules governing various proceedings involving juveniles in the Family Division and the Criminal Division. Other statutes and court rules may be incorporated by reference in these provisions. Court rules take precedence over statutes only in matters involving judicial rules of practice and procedure, not substantive law. See, generally, *McDougall v Schanz*, 461

Mich 15 (1999).

Type of Proceeding	
Delinquency Cases in Family Division, Including Status Offenses	<p>Statutes: MCL 712A.1 et seq. (Juvenile Code) MCL 722.821 et seq. (Juvenile Diversion Act)</p> <p>Court Rules: MCR 3.901–3.950, 3.980, and 3.991–3.993</p>
Personal Protection Order Actions With Minor Respondents in Family Division	<p>Statutes: Sections 2, 2a, 2c, 14, 15, 17, 17c, 18, and 26 of the Juvenile Code, MCL 712A.1 et seq., MCL 600.2950 and 600.2950a (PPOs), MCL 600.1701 et seq. (contempt of court), and MCL 764.15b (warrantless arrest) and 764.15c (report requirements)</p> <p>Court Rules: MCR 3.701–3.707, 3.709, 3.981–3.989, 3.993</p>
Designated Proceedings in Family Division	<p>Statutes: Sections 2d, 9a, 18, 18h, and 18i of the Juvenile Code, MCL 712A.1 et seq.</p> <p>Court Rules: MCR 3.951–3.956</p>
“Automatic Waiver” of Family Division Jurisdiction	<p>Statutes: MCL 600.606 (jurisdiction), MCL 764.1f (arraignment in district court), MCL 769.1 et seq. (sentencing)</p> <p>Court Rules: Subchapter 6.900, MCR 6.901 et seq.</p>
“Traditional Waiver” of Family Division Jurisdiction	<p>Statutes: MCL 712A.4 (Juvenile Code)</p> <p>Court Rule: MCR 3.950</p>

MCR 3.901(A) states as follows:

“(1) The rules in [Subchapter 3.900], in subchapter 1.100 and in MCR 5.113, govern practice and procedure in the family division of the circuit court in all cases filed under the Juvenile Code.

“(2) Other Michigan Court Rules apply to juvenile cases in the family division of the circuit court only when this subchapter specifically provides.”

The other court rules that are specifically made applicable to juvenile proceedings are listed below.

- MCR 2.003 (disqualification of a judge);
- MCR 2.104(A) (proof of service of a summons);
- MCR 2.106(G)(1) and (G)(3) (proof of service by publication);

- MCR 2.107(D) (proof of service of papers other than a summons);
- MCR 2.114(A) (verification of petitions);
- MCR 2.117(B) (appearance of attorney);
- MCR 2.119 (motion practice);
- MCR 2.313 (sanctions for discovery violations);
- MCR 2.401 (scope and effect of pretrial conferences, “except as otherwise provided in or unless inconsistent with the rules of [Subchapter 3.900]”);
- MCR 2.506 (service of subpoenas);
- MCR 2.508–2.516, except as modified by MCR 3.911 (jury procedure in juvenile delinquency cases);
- MCR 2.602(A)(1)–(2) (form and signing of judgments);
- MCR 2.613 (limitations on correction of error);
- MCR 3.205 (manner of notice from Family Division to another Michigan court with jurisdiction over a minor);
- MCR 3.206(A)(4) (required information in the petition to identify other Family Division matters involving members of the same family);
- MCR 3.604 (bond, except as otherwise provided in MCR 3.935);
- MCR 3.606 (contempts committed outside the presence of the court);
- MCR 3.700 et seq. (issuance, dismissal, modification, or rescission of PPOs; appeals in PPOs are governed by MCR 3.709 and MCR 3.993);
- MCR 6.110 (preliminary examinations in designated cases);
- MCR 6.300 et seq. (pleas in designated cases);
- MCR 6.400 et seq., except for MCR 6.402(A) (trial procedure in designated cases, except for waiver of jury trial);
- MCR 6.401–6.420 (jury procedure in designated cases);
- MCR 6.425 (imposition of adult sentence in designated cases);
- MCR Chapter 7, except as modified by MCR 3.993 (appeals); and
- MCR 8.108 or as provided by statute (records of proceedings).

MCR 6.901(A) states that the rules in Subchapter 6.900, which govern “automatic waiver” proceedings, “take precedence over, but are not exclusive of, the rules of procedure applicable to criminal actions against adult offenders.”

1.3 Applicability of Criminal Statutes and Rules of Criminal Procedure to Juvenile Delinquency Cases

A. Applicability of Penal Statutes

The penal statutes that apply to adult criminal defendants also apply to juvenile offenders. MCL 712A.2(a)(1) provides that the Family Division has jurisdiction over proceedings if a juvenile under age 17 is alleged to have violated a criminal law or ordinance. Under the Michigan Court Rules, an “offense by a juvenile” is defined in part as “an act that violates a criminal statute, a criminal ordinance[, or] a traffic law. . . .” MCR 3.903(B)(3). See also MCR 3.903(A)(5) (a delinquency proceeding means “a proceeding concerning an offense by a juvenile, as defined in MCR 3.903(B)(3).” The Court of Appeals has stated that “criminal” statutes apply to juvenile delinquency proceedings. *In re Alton*, 203 Mich App 405, 407 (1994), and *In re McDaniel*, 186 Mich App 696, 699–700 (1991) (the “aiding and abetting statute,” MCL 767.39, applies to delinquency proceedings).

Note: MCR 3.903(B)(3) also includes violations of MCL 712A.2(a) and (d) in its definition of “offense by a juvenile.” MCL 712A.2(a)(2)–(4) contain “status offenses,” acts that are violations of law only when committed by a minor (running away from home without sufficient cause, incorrigibility, and truancy). Status offenses are governed wholly by the Juvenile Code. MCL 712A.2(d)(1)–(5) contain rarely used provisions dealing with “wayward minors.” See Sections 2.3 and 2.4 for discussion of Family Division jurisdiction over status offenders and “wayward minors.”

The disposition of a juvenile who has committed a criminal offense is governed by the Juvenile Code, and not all of the penalty provisions contained in criminal statutes apply. MCR 3.943(E)(1) states that “[i]f the juvenile has been found to have committed an offense, the court may enter an order of disposition as provided by MCL 712A.18.” MCL 712A.18 provides that following adjudication the court may enter one or more of several orders concerning a juvenile, including a warning and dismissal, probation, commitment to a public or private institution, and placement in a juvenile boot camp. See *In re Whittaker*, 239 Mich App 26, 29, n 1 (1999) (placement of a juvenile on probation following a delinquency adjudication of first- and second-degree criminal sexual conduct involving a four-year-old victim highlights the differences between a juvenile disposition and an adult sentence). The court may also order a juvenile to pay “a civil fine in

the amount of the civil or penal fine provided by the ordinance or law.” MCL 712A.18(1)(j).

Historically, juvenile dispositions have emphasized rehabilitation rather than punishment. Currently, Michigan law reflects in part this emphasis. MCR 3.902(B)(1)–(2) state as follows:

“The rules must be interpreted and applied in keeping with the philosophy expressed in the Juvenile Code. The court shall ensure that each minor coming within the jurisdiction of the court shall:

- (1) receive the care, guidance, and control, preferably in the minor’s own home, that is conducive to the minor’s welfare and the best interests of the public; and
- (2) when removed from parental control, be placed in care as nearly as possible equivalent to the care that the minor’s parents should have given the minor.”

MCL 712A.1(3) contains similar language. However, several provisions of Michigan law emphasize punishment rather than rehabilitation. For example, as noted in Section 1.6(A), juveniles of any age may be tried and sentenced in the Family Division in the same manner as an adult criminal defendant. Also, juveniles must be placed in secure detention if they are found to have used a firearm during a criminal offense. MCL 712A.18g and MCR 3.943(E)(7).

B. Applicability of Statutory Rules of Criminal Procedure

Although delinquency proceedings are not criminal proceedings, MCL 712A.1(2), statutory rules of criminal procedure may apply to such proceedings. MCR 3.901(A)(1) sets forth the rules of “practice and procedure” that apply to juvenile delinquency proceedings. That rule states in part that “[t]he rules in [Subchapter 3.900 and] in subchapter 1.100 . . . govern practice and procedure in the family division of the circuit court in all cases filed under the Juvenile Code.”

MCR 1.104 deals with rules of “practice and procedure” contained in statutes. “Rules of practice set forth in any statute, if not in conflict with any of these rules, are effective until superseded by rules adopted by the Supreme Court.” Thus, statutory rules of criminal procedure, if not in conflict with the court rules governing juvenile delinquency proceedings, apply to such proceedings. *In re McDaniel*, 186 Mich App 696, 698–99 (1991) (MCL 767.39, which abolishes the common law distinction between principal and accessory, applies to delinquency proceedings), and *In re Carey*, 241 Mich App 222, 234 (2000) (absent a conflicting statute or court

*Note, however, that in Michigan juveniles are entitled to a jury if requested pursuant to MCR 3.911.

rule, the competency provisions of the Mental Health Code provide a useful guide for competency determinations in delinquency cases). However, in *In re Whittaker*, 239 Mich App 26, 29 (1999), the Court of Appeals held that MCL 763.3 governing waiver of jury trial in criminal cases is inapplicable to delinquency cases even though no court rule governs waiver of jury trial in delinquency cases. The Court in *Whittaker* did not cite MCR 1.104.

As a constitutional matter, not all of the procedures required by due process in a criminal case are required in delinquency cases. *People v Hana*, 443 Mich 202, 225 (1993). “Fundamental fairness” is the applicable due process standard in delinquency proceedings. *McKeiver v Pennsylvania*, 403 US 528, 543 (1971). “While juveniles are entitled to appropriate notice, to counsel, to confrontation and cross-examination, to a privilege against self-incrimination, and to a standard of proof beyond a reasonable doubt, there is no constitutional right to a jury trial.” *Whittaker, supra* at 28, citing *McKeiver, supra* at 533. * See, generally, *In re Gault*, 387 US 1 (1967) and *In re Winship*, 397 US 358 (1970).

C. Applicability of Rules of Evidence

MCR 3.901(A)(3) states in part:

“The Michigan Rules of Evidence, except with regard to privileges, do not apply to proceedings under this subchapter, except where a rule in this subchapter specifically so provides.”

See also MRE 1101(b)(7) (the Michigan Rules of Evidence, other than those with respect to privileges, do not apply wherever a rule in Subchapter 3.900 states that they don’t apply). The applicability of the Michigan Rules of Evidence is explained in relevant sections throughout this benchbook.

1.4 Procedural Options in Delinquency Proceedings

*The court’s procedural options are limited in cases falling under the Crime Victim’s Rights Act. See Section 4.3.

Under the Juvenile Code and related court rules, the Family Division has several procedural options when a petition is filed in a delinquency proceeding. * Pursuant to MCR 3.932(A)(1)–(5) (preliminary inquiries) and MCR 3.935(B)(3) (preliminary hearings), the court may choose one of the following procedural options that will best serve the interests of the juvenile and the public:

- deny authorization of the petition or dismiss the petition;
- direct that the parent, guardian, or legal custodian and juvenile appear so that the matter can be handled through further informal inquiry;
- without authorizing a petition to be filed, refer the matter to a public or private agency pursuant to the Juvenile Diversion Act;

- without authorizing a petition to be filed, proceed on the consent calendar; or
- after authorizing a petition to be filed, proceed on the formal calendar.

Diversion. A case may be “diverted” from adjudication on a petition by a police officer or court intake worker. If a referral accompanies the diversion, the juvenile may be required to comply with the terms of a diversion agreement. If the juvenile fails to comply with the agreement, the court may authorize a petition formally charging the juvenile with the offense.

Consent calendar. If the court finds that “protective and supportive action by the court will serve the best interests of the juvenile and the public,” the court may place the case on the consent calendar. MCR 3.932(C). The petition is not authorized for filing, and the juvenile and his or her parent, guardian, or legal custodian must agree to have the case placed on the consent calendar. If it appears to the court that the juvenile has committed an act that would bring him or her within the court’s jurisdiction, the court may issue a case plan, but the juvenile may not be removed from the custody of the parent, guardian, or legal custodian. The court may at any time transfer the case to the formal calendar.

Formal calendar. If the case is placed on the formal calendar, the court will conduct a formal adjudicative hearing and, if the juvenile is found responsible for the offense, a dispositional hearing.

In addition, a court may “take a plea of admission or no contest under advisement” pursuant to MCR 3.941(D) and later dismiss the case if the juvenile complies with the court’s directives. See, for example, *In the Matter of Raphael Hastie*, unpublished opinion of the Court of Appeals, decided March 28, 2000 (Docket No. 213880) (a plea taken under advisement in a first-degree criminal sexual conduct case was later properly accepted by the court where the juvenile did not successfully complete therapy) and *In re JS & SM*, 231 Mich App 92, 95 (1998), overruled on other grounds 462 Mich 341, 353 (2000).

Criminal traffic violations. A court may utilize an informal procedure contained in the Juvenile Code for certain criminal traffic violations. Under MCL 712A.2b, if a violation of the Michigan Vehicle Code is alleged, the court may hold an informal hearing. If the court finds that the allegation is true, it may impose a disposition.

1.5 Summary of Minor Personal Protection Order Proceedings

*Minor PPO proceedings are discussed in detail in Chapter 15.

The Family Division has jurisdiction over minor respondents 10 years old or older in personal protection order (PPO) proceedings* under both the domestic relationship PPO statute, MCL 600.2950, and the non-domestic relationship stalking PPO statute, MCL 600.2950a. The domestic relationship PPO” protects individuals who live or have lived with the respondent, have a child in common with the respondent, or who have a past or present marriage or dating relationship with the respondent. The “non-domestic stalking PPO” protects victims of stalking, regardless of whether they have a relationship with the respondent. A “domestic relationship PPO” is available to restrain a number of specified abusive acts, as well as “any other specific act or conduct that imposes upon or interferes with personal liberty, or that causes a reasonable apprehension of violence.” MCL 600.2950(1)(j). A “non-domestic stalking PPO” is available to restrain conduct that is prohibited under the criminal stalking statutes.

The Family Division may not issue a PPO if either:

- the unemancipated respondent is the petitioner’s minor child, or
- the unemancipated petitioner is the respondent’s minor child.

*See Sections 2.3 (jurisdiction of status offenses) and 2.5 (jurisdiction of delinquency cases).

However, alternative remedies may be available in these situations. For example, if an unemancipated minor under 17 years old violates a criminal law or ordinance, jurisdiction may be proper under MCL 712A.2(a)(1). Jurisdiction may also be proper under MCL 712A.2(a)(3) if the juvenile is under 17 years old and “is repeatedly disobedient to the reasonable and lawful commands of his or her parent, guardian, or custodian and the court finds on the record by clear and convincing evidence that court-accessed services are necessary.”*

*For a discussion of adult PPO laws and procedures, see Lovik, *Domestic Violence Benchbook: A Guide to Civil & Criminal Proceedings*, Second Edition (MJI, 2001), Chapters 6–8.

If the respondent is under age 18, issuance of either type of PPO is subject to the Juvenile Code. Issuance proceedings in PPO actions under the Juvenile Code are governed by subchapter 3.700 of the Michigan Court Rules, so that they are substantially similar to actions involving an adult respondent.* Subchapter 3.700 contains some special provisions for issuing PPOs with a minor respondent, however, particularly in the areas of venue and service of process.

In cases where a respondent under age 18 has allegedly violated a PPO, enforcement proceedings are governed by subchapter 3.900 of the Michigan Court Rules. MCR 3.701(A) and 3.982(B). Court action to enforce a PPO against a respondent under age 18 is initiated by a supplemental petition that may be filed by the original petitioner, a law enforcement officer, a prosecutor, a probation officer, or a caseworker. Upon receipt of a supplemental petition submitted by the original petitioner, the court must either set a date for a preliminary hearing and issue a summons to appear, or issue an order authorizing a peace officer or other person designated by the

court to apprehend the respondent. A law enforcement officer may also apprehend a respondent under age 18 without a court order for violating a PPO. In that case, the officer is responsible to ensure that the supplemental petition is prepared and filed with the court.

If the court exercises its jurisdiction over a minor respondent in a PPO proceeding, jurisdiction continues until the order expires, even if the respondent reaches adulthood during that time. However, “action regarding the personal protection order after the respondent’s eighteenth birthday shall not be subject to [the Juvenile Code].” MCL 712A.2a(3). Instead, the court would apply adult PPO laws and procedures to actions regarding the PPO after the respondent’s 18th birthday.

Although they are subject to the enforcement procedures for minor respondents, violations committed on or after the respondent’s 17th birthday are subject to the same sanctions for criminal and civil contempt to which adult respondents are subject and may be committed to a county jail within the adult prisoner population. If the respondent is under age 17, he or she is subject to the dispositional alternatives contained in MCL 712A.18.

1.6 A Comparison of Designated Cases and Waiver Cases

There are now five options available to prosecuting attorneys when a juvenile commits a criminal offense. As explained above in Section 1.4, the prosecutor may file a delinquency petition against the juvenile in the Family Division. If the juvenile is found responsible for the offense following a plea or trial, he or she may be required to remain under the jurisdiction of the Family Division until age 19, with possible extension of jurisdiction until age 21.

Because delinquency proceedings are not criminal proceedings, the juvenile who is found responsible for an offense in a delinquency case may not be sentenced as an adult. Because it has determined that there are juveniles who will not benefit from the services available in the juvenile justice system, the Legislature has made available to prosecuting attorneys four different types of proceedings that can lead to a criminal conviction for a juvenile. These are prosecutor-designated proceedings, court-designated proceedings, “automatic waiver” proceedings, and “traditional waiver” proceedings.

Although each of these proceedings can lead to a criminal conviction, each has distinguishing characteristics. The discussion that follows points out some of these characteristics.

A. Age Requirements

In both prosecutor-designated and court-designated cases, the juvenile may be any age under 17 when the offense occurs. In “automatic” and

“traditional waiver” cases, the juvenile must be older than 14 but younger than 17 when the offense occurs.

B. Judicial Discretion That Must Be Exercised

*These criteria are discussed in Sections 2.8(B), 16.19, 17.11, 19.2, and 21.4.

Each type of proceeding may require a circuit court judge to decide whether the juvenile should be tried or sentenced as an adult. When such a decision is required, the criteria that judges must use in making these decisions are identical in all four types of cases.* However, the proceedings differ in the time that the decisions must be made and the interests that the judge must consider when making them.

- In prosecutor-designated cases, no hearing is held prior to trial to determine whether to try the juvenile in criminal proceedings. The judicial decision to sentence the juvenile as an adult or to impose a juvenile disposition is not made until after conviction. The Family Division judge may impose a juvenile disposition or, if the judge determines that it is in the best interest of the public, sentence the juvenile as an adult. The court may also delay imposition of an adult sentence.
- In court-designated cases, a judge or attorney-referee must hold a hearing to determine whether to try the juvenile in criminal proceedings. In making that decision, the Family Division judge must consider the best interests of both the juvenile and the public. Following conviction, the Family Division judge may impose a juvenile disposition or, if the judge determines that it is in the best interest of the public, sentence the juvenile as an adult. The court may also delay imposition of an adult sentence.
- In “automatic waiver” cases, no hearing is held prior to trial to determine whether to try the juvenile in criminal proceedings. For certain serious offenses, the juvenile must be sentenced as an adult following conviction. For other offenses, the decision to sentence the juvenile as an adult or place the juvenile on probation and commit the juvenile as a public ward is made by a Criminal Division judge. The judge must consider only the best interest of the public in making that decision.
- In “traditional waiver” cases, a two-phase hearing may be held in the Family Division to determine whether the juvenile will be tried and sentenced as an adult in the Criminal Division. The Family Division judge must consider the best interests of both the juvenile and the public during the second phase of the waiver hearing. If convicted following waiver, the juvenile must be sentenced as an adult.

C. Types of Offenses That May Be Charged

Prosecutor-designated cases and “automatic waiver” cases may only be used when a specified juvenile violation* is alleged.

Court-designated cases may be used for any type of offense (felony or misdemeanor), and “traditional waiver” cases may be used when a felony is alleged.

*Specified juvenile violations are listed in Section 2.6.

D. Division of Circuit Court That Has Jurisdiction

The Family Division of the Circuit Court has jurisdiction over both types of designated cases and “traditional waiver” cases prior to the decision to waive jurisdiction. The Criminal Division of the Circuit Court has jurisdiction over “automatic waiver” cases, and it has jurisdiction over “traditional waiver” cases after jurisdiction has been waived by the Family Division.

E. Types of Sentences That May Be Imposed

- In prosecutor-designated cases, the Family Division judge may order a juvenile disposition, sentence the juvenile as an adult, or delay imposition of the sentence and place the juvenile on probation (commonly known as a “blended sentence”). If the juvenile is sentenced as an adult, he or she may be committed to the Department of Corrections. If the judge delays imposition of sentence, he or she enters a judgment of sentence but delays its imposition and enters a dispositional order. The court must review the juvenile’s performance during the time in which it has jurisdiction over the juvenile to determine whether sentence should be imposed at any point during that period.
- In court-designated cases, the Family Division judge has the same options as in prosecutor-designated cases, except that, initially, the juvenile may not be committed to the Department of Corrections. If the judge delays imposition of sentence and the juvenile fails to comply with the terms of the dispositional order, the court may then commit the juvenile to the Department of Corrections.
- In “automatic waiver” cases, the Criminal Division judge must sentence the juvenile as an adult following conviction of one of 12 very serious offenses. For offenses not requiring adult sentencing, the judge may place the juvenile on probation and commit the juvenile to public wardship or impose an adult sentence. If the juvenile is placed on probation as a public ward, the court must review the sentence until the end of the juvenile’s probationary period to determine whether sentence should be imposed at any point during that period.

- In “traditional waiver” cases, the juvenile must be sentenced as an adult following conviction.

F. Table Summarizing Procedures in Designated Cases and Waiver Cases

The following table summarizes the procedures applicable to proceedings in which a juvenile may be tried and sentence as an adult under Michigan law. For more detailed discussion of the required procedures, see Chapter 16 (“traditional waiver” proceedings), Chapters 17–19 and 22 (designated case proceedings), Chapters 20–22 (“automatic waiver” proceedings).